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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,296	08/06/2003	Wesley C. Sodemann	039189-9068-00	8029
23409	7590	05/15/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			PONOMARENKO, NICHOLAS	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.	Applicant(s)	
10/635,296	SODEMANN ET AL.	
Examiner	Art Unit	
Nicholas Ponomarenko	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 18-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18-38 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/07/03</u> <b>7</b> pg. | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-17, drawn to a portable power supply.
  - II. Claims 18-33, drawn to a system for starting engine-driven equipment.
  - III. Claims 34-38, drawn to a method of operating an engine starter with the associated steps of interconnecting and powering the starter-motor.
2. The inventions are distinct, each from the other because of the following reasons: Inventions of Group I through III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, functions and effects.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. Sheldon L. Wolfe (Reg. No. 43,996) on May 12, 2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-17. Claims 18-38 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected inventions.

***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “fuel cell” (claim 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

6. Claims 6 and 8-11 are objected to because of the following informalities:

In claim 6, words "one or more keyed terminals" are indefinite.

In claim 8, words "terminal(s) are coupled... when the switch is in the ON position" are confusing and open to interpretations.

In claim 9, words "terminal(s) are coupled... when the switch is in the START position" are confusing and open to interpretations.

In claim 10, words "connector operable to receive at lest one of alternating current and direct current" are confusing and open to interpretations

In claim 11, words "cable ... adapted to be connected to the connector" is not clear and open to interpretations.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. (US 6,636,015) or Tracey (US 6,400,121), and further in view of MacKay et al. (US 5,967,304) and Harvey et al. (US 4,389,166).

Levine et al. or Tracey teach portable power supply with a battery, housing, switch and connector, which can be used to power an engine-driven equipment and start the engine if one so desires, essentially as claimed by the applicant(s), but they do not teach the three position switch with ON fixed position and START momentarily position, and they do not teach additional air compressor unit integrated into the common block.

Official notice is taken of the fact that the claimed switch type is well known in the art and is common item for the designer of power control equipment. The portable air compressors are well known in the art as well. For example:

MacKay et al. teaches a rotary switch with a plurality of different settings, such as a momentarily settings, an off setting and low and high power stable settings (abstract).

Harvey et al. teaches a portable air compressor driven by a battery and has a compressor's mechanism, which can be readily adopted or installed in another enclosure for the operation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a portable power source as taught by Levine et al. or Tracey and to use a three position switch with momentarily and fixed positions as taught by MacKay et al. and to add an air compressor as taught by Harvey et al. in order to have a convenient operation of the start switch with momentarily or fixed positions and to have an air compressor in one unit for compactness and convenience, especially since applicant(s) failed to show that their switch or their air compressor provide any

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unusual results and it appears that the claimed combination of a well known features is within capabilities of an ordinary designer in the art.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant(s) disclosure.

10. When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support. No new matter may be introduced.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ponomarenko whose telephone number is (571) 272- 2033, Fax: (571) 273-2033, or to his SPE Darren Schuberg – (571) 272-2044.

12. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2800 Customer Service  
Phone: (571) 272-2815

May 12, 2006



**Nicholas Ponomarenko  
Primary Examiner  
Technology Center 2800**